STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	**01/10/01**	Bill No:	**SB 73**
Tax:	**Tax on Insurers**	Author:	**Dunn, et al.**
Board Position:		Related Bills:	

BILL SUMMARY

This bill would, for purposes of existing low-income housing tax credits, provide a $70 million maximum aggregate dollar amount for the 2001 calendar year and each calendar year, thereafter. In addition, this bill would provide for the 2002 calendar year and each calendar year thereafter an adjustment for inflation measured by an increase in the Consumer Price Index (CPI).

ANALYSIS

Current Law

Under current law, Section 12206 of the Revenue and Taxation Code authorizes insurance companies that invest in low-income housing to compete for a gross premiums tax credit granted by the California Tax Credit Allocation Committee. The tax credit is also available under the Personal Income Tax Law and the Bank and Corporation Tax Law, but the tax credit is limited to an aggregate of $50 million under all three tax laws combined.

Under Section 12221 of the Revenue and Taxation Code, an annual tax is imposed on the gross premiums, less return premiums, of insurers doing business in this state, but not transacting title insurance.

In the case of insurers transacting title insurance, under Section 12231 a tax is imposed on all income except interest and dividends, rents from real property, profits from the sale of investments, and income from investments.

Under Section 12202 of the Revenue and Taxation Code, the rate of the insurance tax is 2.35 percent, except for specified premiums which are taxed at 0.50 percent. Under Section 12204 of the Revenue and Taxation Code, the insurance tax is imposed on insurers and their property in lieu of all other state, county, and municipal taxes and licenses, including income taxes, with specified exceptions.

Current law also provides for a gross premiums tax credit in an amount equal to the amount of the gross premiums tax due from the insurer on account of the pilot project insurance for previously uninsured motorists under Section 12208 of the Revenue and Taxation Code. Additionally, Section 12209 allows as a credit against the amount of tax an amount equal to 20 percent of the amount of each qualified deposit made by an insurance company during the year into a community development financial institution that lends to urban, rural, or reservation-based communities in this state.

Proposed Law

Among other things, this bill would amend Section 12206 of the California Tax on Insurers to increase to $70 million for calendar year 2001, and each calendar year thereafter, the aggregate housing credit that may be allocated annually by the California Tax Credit Allocation Committee for investments in qualified low-income housing projects. This bill would also provide for the 2002 calendar year and each calendar year thereafter an adjustment for inflation measured by an increase in the CPI.

Background

Prior to the enactment of Assembly Bill 1438 (Ch. 1222, 1993), the state low-income housing credit was strictly an income tax credit available only under the Personal Income Tax Law and the Banks and Corporations Tax Law. Since insurance companies pay the gross premiums tax in lieu of all other state, county, and municipal taxes and licenses, including income taxes, they were not able to take advantage of the tax credit as an incentive to invest in low-income housing.

Assembly Bill 1438 (Caldera) was sponsored by Housing California with the intent of expanding the base of low-income housing investors. By including the tax credit in the insurance tax law, insurance companies were able to compete for a portion of the $35 million tax credit available each year.

In 1998, Assembly Bill 168 (Torlakson, Ch. 9) increased the aggregate tax credit granted by the California Tax Credit Allocation Committee for qualifying low-income housing project investments from $35 million to $50 million for calendar years 1998 and 1999 only. This bill was intended to stimulate more investment in low-income housing by increasing the amount of the available tax credit. Assembly Bill 1626 (Ch. 3, Stats. 2000, Torlakson) permanently increased the aggregate housing credit that may be allocated by the California Tax Credit Allocation Committee to $50 million annually.

COMMENTS

1. **Sponsor and purpose.** This bill is co-sponsored by the California State Treasurer, the Western Center on Law and Poverty, and the California Rural Legal Assistance Foundation and is intended to stimulate more investment in low-income housing by increasing the amount of the available tax credit.

2. **The Board staff does not foresee any administrative problems with this measure.** The Board of Equalization, the State Controller, and the Department of Insurance share administrative responsibility for the insurance tax program. Section 28 of Article XIII of the California Constitution states that the Board shall assess taxes under the Insurance Tax Law. Upon recommendation from the Department of Insurance, the Board also issues deficiency assessments in cases of underpayment of the tax by an insurer. The Office of the Controller has the responsibility to collect the tax and issue refunds. Audit verification work is the responsibility of the Department of Insurance.

As the law is currently administered, the Department of Insurance would be responsible for the verification of the tax credit. It is anticipated that the increase in the tax credit as proposed by this measure would have a minimal impact on the Board's current functions under the Insurance Tax Law.

COST ESTIMATE

The administrative costs associated with this bill would be absorbable. These costs would include informing, advising, and answering inquiries from the public, and training Board staff.

REVENUE ESTIMATE

Current law provides for a tax credit pool of $50 million annually. This measure could potentially decrease the General Fund by $20 million annually by increasing the available tax credit to $70 million. The loss would depend on any adjustment to the aggregate dollar amount for inflation measured by an increase in the CPI, and whether or not the entire tax credit was allocated each year.

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